



UNITED STATES DEPARTMENT OF COMMERCE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/068,253	06/09/98	SHIMURA	T 146.1286

020311
BIERMAN MUSERLIAN AND LUCAS
600 THIRD AVENUE
NEW YORK NY 10016

HM12/1005

EXAMINER

LOW, C

ART UNIT	PAPER NUMBER
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1653

DATE MAILED: 10/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

09/068,253

Applicant(s)

SHIMURA et al

Examiner

F. MOEZIE

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Sept. 12, 2000 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires six months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or properly submit the amended materials. See NOTE below.
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The amendments are not submitted properly as they are marked in pencil - not in permanent ink.

Additionally, the pencil markings are not legible.

4. ☐ Applicant's reply has overcome the following rejection(s):

5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
The Official response is not properly submitted. The marked up copy of the specification and claims are marked in pencil and not in permanent ink. Moreover, the pencil markings are not legible.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
Claim(s) allowed: NONE
Claim(s) objected to: NONE
Claim(s) rejected: 2-5, 8, 9, and 12-15
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☒ Other: See the attached sheet.

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ADVISORY ACTION - ATTACHMENT

The amendments filed September 12, 2001 is improper. The amendments must be legibly written in permanent black ink or preferably typed.

Accordingly, the specification is found objectionable. Claims are rejected as being supported by an objectionable specification.

The nomenclature for the polymer molecule in claim 14 (the only independent claim in this application) is incorrect. The correct nomenclature is found in the original claim 2.

In claims 4, 5 and 11, the SEQ ID NO would have to be cited in the claim following MP52. as this sequence is novel. See, page 8, line 1, wherein "the new protein" is cited as MP52.

In claim 9, "an" aqueous solution should read "the" aqueous solution.

Claim 13 is dependent on cancel claim 12 (canceled 8/11/00).

In claim 14, the only independent claim in this file, the correct definition is the molecular weight due to propylene glycol in the polymer molecule is 900 to 4000 Kd. Assuming that the molecular weight was measured in Kd units in the reference which defines SEQ ID for MP52. Reference must also be made to "polymer molecule" in the claims, for clarity and further because the molecule is a polymer molecule. The dependent claims should be corrected accordingly, if necessary.

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Any inquiry concerning this communication should be directed to F.T. Moezie at telephone number (703) 305-4508 or Dr. LOW (SPE) at 308-2923.

F. T. Moezie
F. T. MOEZIE, JR.
PRIMARY EXAMINER
ART UNIT 1653